IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N. RAMACHANDRAN NAIR

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 23481 of 2007(U)

PETITIONER:

M/S.BHARAT SANCHAR NIGAM LTD.,
CIVIL DIVISION, KOTTAYAM, REPRESENTED BY ITS
EXECUTIVE ENGINEER, K.G.DIVAKARAN NAIR.

BY ADV. SMT.S.K.DEVI

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
(WORKS CONTRACT), OFFICE OF THE DEPUTY
COMMISSIONER, COMMERCIAL TAXES,
KOTTAYAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 23481 OF 2007

Dated this the 1st day of August, 2007

JUDGMENT

Petitioner has filed appeals against sales tax assessments for 1998-99, 1999-2000 and 2000-01. Counsel for the petitioner submitted that appeals are numbered as STA Nos. 262 to 264 of 2006 and are pending before the Deputy Commissioner (Appeals), Kollam. This Court vide judgment dated 19.1.2007 granted conditional stay against recovery and directed expeditious disposal of appeals. Strangely appeals are not so far disposed of. The present challenge is against demand of penal interest under Section 23(3A) of the KGST Act for the same years. W.P. is therefore disposed of directing the Deputy Commissioner (Appeals), Kollam, to dispose of the appeals after hearing the petitioner within three weeks from the date of production of a copy of this judgment. If however, appeals are already disposed of, the Officer will, based on order in appeal, reconsider the validity of interest demanded and if any modification is required, he will rectify the same and issue revised proceedings under Section 43 of the KGST

Act. If the petitioner has any grievance against rectified order, petitioner can file appeal or revision. On the other hand, if the interest demand is retained after reconsideration, the Officer is free to issue fresh communication to that effect. Respondents are directed to withhold recovery proceedings for six weeks from now and thereafter recovery of interest will be based on fresh proceedings to be issued by the assessing officer as stated above.

(C.N.RAMACHANDRAN NAIR)
Judge